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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

10  
11 DAVID CAMPBELL,

12 Plaintiff,

13 v.

14 TIMOTHY YEO and TAF GROUP  
LTD., a British Virgin Islands  
15 Company,

16 Defendants.  
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CASE NO. 3:07-CV-06229 BZ

**ANSWER OF DEFENDANTS  
TIMOTHY YEO AND TAF GROUP  
LTD. TO PLAINTIFF'S  
COMPLAINT**

Trial Date: None Set

1 Defendants Timothy Yeo (“Yeo”) and TAF Group Ltd. (“TAF”) (collectively,  
2 “Defendants”) hereby answer the Complaint of Plaintiff David Campbell  
3 (“Plaintiff”) as follows:

4 1. Defendants are without knowledge or information sufficient to form a  
5 belief as to the truth of the allegations contained in paragraph 1 of the Complaint.

6 **JURISDICTIONAL ALLEGATIONS**

7 2. Defendants admit the allegations contained in paragraph 2 of the  
8 Complaint.

9 3. Defendants admit the allegations contained in paragraph 3 of the  
10 Complaint.

11 4. Defendants admit the allegations contained in paragraph 4 of the  
12 Complaint.

13 **VENUE ALLEGATIONS**

14 5. Defendants are without knowledge or information sufficient to form a  
15 belief as to whether Plaintiff resides in the Northern District of California.  
16 Defendants admit that they have consented to writing to venue in this Court. Except  
17 as expressly admitted herein, Defendants deny, generally and specifically, the  
18 remaining allegations contained in paragraph 5 of the Complaint.

19 **FIRST CAUSE OF ACTION AGAINST TAF GROUP LTD.**

20 6. Defendants admit that on October 15, 2005, they executed and  
21 delivered to Plaintiff a document entitled Promissory Note, dated October 15, 2005,  
22 showing a principal amount of \$325,000 payable to the order of Plaintiff at 1026  
23 Woodside Drive, Napa, California (the “Promissory Note”). Defendants admit that  
24 Exhibit A is a copy of the Promissory Note. Defendants deny, generally and  
25 specifically, the remaining allegations contained in paragraph 6 of the Complaint,  
26 including that the Promissory Note evidences, or was intended to evidence, a loan  
27 by Plaintiff to Defendant TAF Group Ltd.

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1           7. Defendants deny, generally and specifically, each and every allegation  
2 contained in paragraph 7 of the Complaint.

3           8. Defendants deny, generally and specifically, each and every allegation  
4 contained in paragraph 8 of the Complaint.

5                   **SECOND CAUSE OF ACTION AGAINST TIMOTHY YEO**

6           9. Defendants admit that Timothy Yeo is the principal in defendant TAF  
7 Group Ltd. Defendants admit that on or about November 1, 2005, Yeo executed  
8 and delivered to Plaintiff a document entitled Personal Guaranty. Defendants admit  
9 that Exhibit B is a copy of the Personal Guaranty. Defendants deny, generally and  
10 specifically, the remaining allegations contained in paragraph 9 of the Complaint,  
11 including that “[u]nder the terms of the Personal Guaranty, [Yeo] is obligated to pay  
12 to plaintiff all amounts unpaid by [TAF] under the terms of the Promissory Note.”

13           10. Defendants deny, generally and specifically, each and every allegation  
14 contained in paragraph 10 of the Complaint.

15                   **AFFIRMATIVE DEFENSES**

16           By way of affirmative defenses to the claims for relief alleged herein,  
17 Defendants, and each of them, allege:

18                   **FIRST AFFIRMATIVE DEFENSE**

19                   **(California Uniform Commercial Code § 3117)**

20           The Complaint, and each cause of action therein, is barred pursuant to Section  
21 3117 of the California Uniform Commercial Code because Plaintiff and TAF  
22 entered into a separate agreement (the “Investment Agreement”) whereby the parties  
23 agreed that TAF would not be liable on the Promissory Note unless TAF failed to  
24 perform its obligations pursuant to Investment Agreement. The Investment  
25 Agreement modified, supplemented, or nullified TAF’s obligations, if any, under the  
26 Promissory Note. TAF entered into the Promissory Note in reliance on the  
27 Investment Agreement. TAF has not failed to perform its obligations pursuant to  
28 Investment Agreement, thus, TAF has no obligation to pay in accordance with the

1 Promissory Note. Similarly, because TAF has not failed to pay the Promissory Note  
2 (because it has no obligation to do so), Yeo has no obligation pursuant to the  
3 Personal Guaranty.

#### 4 **SECOND AFFIRMATIVE DEFENSE**

##### 5 **(Lack of Consideration)**

6 The Complaint, and each cause of action therein, is barred, due to lack of  
7 consideration to support either The Promissory Note or the Personal Guaranty.  
8 Plaintiff did not deliver \$325,000 to TAF on or about October 15, 2005, or at any  
9 other time, in exchange for the Promissory Note. Thus, the Promissory Note, was  
10 not supported by consideration. Accordingly, because the Promissory Note was the  
11 consideration for the Personal Guaranty, the Personal Guaranty was also not  
12 supported by consideration.

#### 13 **THIRD AFFIRMATIVE DEFENSE**

##### 14 **(Sham Transaction)**

15 The Complaint, and each cause of action therein, is barred because the  
16 Promissory Note and the Personal Guaranty were sham transactions. Plaintiff and  
17 TAF did not intend that TAF's execution of the Promissory Note would bind TAF to  
18 its terms; the Promissory Note was a mere formality, and not a jural act. Plaintiff  
19 and Yeo did not intend that Yeo's execution of the Personal Guaranty would bind  
20 YEO to its terms; the Personal Guaranty was a mere formality, and not a jural act.

#### 21 **FOURTH AFFIRMATIVE DEFENSE**

##### 22 **(Alternative Defense for Misrepresentation)**

23 The Complaint, and each cause of action therein, is barred due to false  
24 promises and representations by Plaintiff. On or about October 15, 2005, Plaintiff  
25 made false promises and representations regarding the Promissory Note with the  
26 intent to induce TAF into entering into the Promissory Note. In particular, Plaintiff  
27 stated that the Promissory Note was not intended to be binding, nor intended to  
28 replace the Investment Agreement. Such promises and representations were false

1 when made. Plaintiff knew that TAF would have never agreed to enter into the  
2 Promissory Note if TAF knew that Plaintiff's promises and representations were  
3 false. In reliance upon Plaintiff's false promises and representations, TAF executed  
4 the Promissory Note. Plaintiff made the same false promises and representations in  
5 order to induce Yeo into entering into the Personal Guaranty. Plaintiff knew that  
6 Yeo would have never agreed to enter into the Personal Guaranty if Yeo knew that  
7 Plaintiff's promises and representations were false. In reliance upon Plaintiff's false  
8 promises and representations, Yeo executed the Personal Guaranty.

9 **FIFTH AFFIRMATIVE DEFENSE**

10 **(Failure to Perform)**

11 Without admitting the existence of any enforceable contracts as alleged in the  
12 Complaint, Plaintiff's Complaint, and each cause of action therein, is barred, due to  
13 Plaintiff's failure to perform. Plaintiff did not deliver \$325,000 to TAF on or about  
14 October 15, 2005, in exchange for the Promissory Note, or at any other time. Thus,  
15 Plaintiff did not perform his purported obligations under the terms of the Promissory  
16 Note or the Personal Guaranty.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 **(Breach by Plaintiff)**

19 Without admitting the existence of any enforceable contracts as alleged in the  
20 Complaint, Plaintiff's purported causes of action are barred because Plaintiff failed  
21 to comply with the terms of any alleged contract, therefore, Plaintiff has waived his  
22 rights to assert any of his causes of action.

23 **SEVENTH AFFIRMATIVE DEFENSE**

24 **(Lack of Damages)**

25 Without admitting the existence of any enforceable contracts as alleged in the  
26 Complaint, Plaintiff's purported causes of action are barred because Plaintiff has not  
27 sustained any cognizable damages from any act or omission attributable to

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1 Defendants, and, therefore, has no claim upon which relief may be granted as  
2 against Defendants.

3 **EIGHTH AFFIRMATIVE DEFENSE**

4 **(Unclean Hands)**

5 The Complaint, and each cause of action therein, is barred, due to the doctrine  
6 of unclean hands.

7 **NINTH AFFIRMATIVE DEFENSE**

8 **(Estoppel)**

9 The Complaint, and each cause of action therein, is barred, due to the doctrine  
10 of estoppel.

11 **TENTH AFFIRMATIVE DEFENSE**

12 **(Waiver)**

13 The Complaint, and each cause of action therein, is barred, due to the doctrine  
14 of waiver.

15 **ELEVENTH AFFIRMATIVE DEFENSE**

16 **(Additional Defenses)**

17 Due to the lack of information as to matters set forth in the Complaint,  
18 Defendants have insufficient knowledge or information on which to form a belief as  
19 to whether Defendants have additional, as yet unstated, affirmative defenses  
20 available, and Defendants therefore reserve the right to assert additional affirmative  
21 defenses in the event that discovery indicates said defenses are proper.

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WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff take nothing and be afforded no relief;

2. That Plaintiff's claims be dismissed with prejudice in their entirety and judgment entered in favor of Defendants;

3. For all other relief as the Court may deem just and proper.

DATED: June 4, 2008

WHITE O'CONNOR FINK & BRENNER LLP  
David E. Fink  
Edward E. Weiman (*Admission Pending*)

By /s/ David E. Fink

David E. Fink  
Attorneys for Defendants Timothy Yeo and  
TAF GROUP LTD.